



4191-02U

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA-2013-0023]

RIN 0960-AH59

Extension of the Expiration Date for State Disability Examiner Authority to Make Fully Favorable Quick Disability Determinations and Compassionate Allowances

AGENCY: Social Security Administration.

ACTION: Final Rule.

SUMMARY: We are extending the expiration date of our rules that authorizes State agency disability examiners to make fully favorable determinations without the approval of a State agency medical or psychological consultant in claims that we consider under our quick disability determination (QDD) and compassionate allowance (CAL) processes. The current rules will expire on November 12, 2013. In this final rule, we are changing the November 12, 2013 expiration or “sunset” date to November 14, 2014, extending the authority for 1 year. We are making no other substantive changes, although we are making minor, nonsubstantive editorial changes to the rule for clarity.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Terry Dodson, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-0143, for information about this final rule. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Background of the QDD and CAL Disability Examiner Authority

On October 13, 2010, we published final rules that temporarily authorized State agency disability examiners to make fully favorable determinations without the approval of a State agency medical or psychological consultant in claims that we consider under our QDD and CAL processes. 75 FR 62676.

We included in 20 CFR 404.1615(c)(3) and 416.1015(c)(3) provisions by which the State agency disability examiners' authority to make fully favorable determinations without medical or psychological consultant approval in QDD and CAL claims would no longer be effective on November 12, 2013, unless we decided to terminate the rules earlier or extend them beyond that date by publication of a final rule in the Federal Register. 75 FR 62676.

Explanation of Provision

This final rule extends for 1 year the authority in the rules we published on October 13, 2010 allowing disability examiners to make fully favorable determinations in certain disability claims under our QDD and CAL processes without the approval of a medical or psychological consultant. This rule is consistent with our strategic goal to make fully favorable determinations when we can as quickly as possible.¹ The rule will also help us process cases more efficiently because it will allow State agency medical and psychological consultants to spend their time on cases that require their expertise.

In the rules we published on October 13, 2010, we noted that our experience adjudicating QDD and CAL cases led us to our decision to allow disability examiners to make some fully favorable determinations without a medical or psychological consultation. When we implemented the rules, we also knew that State agencies would require some time to establish procedures, adopt necessary software modifications, and satisfy collective bargaining obligations. Extending the rule will provide us at least three years of data on the active processes.

This final rule will allow us to continue to adjudicate fully favorable determinations more quickly under our QDD and CAL processes. Our reviews of cases in fiscal years 2012 and 2013 adjudicated under the current rules show that the rules have

¹ See Social Security Administration Agency Strategic Plan 2013-2016, Strategic Goal 1, Objective III, at <http://www.ssa.gov/asp/plan-2013-2016.pdf>

not had an adverse effect on the quality of our determinations, and we are continuing to review more recent data. In fact, QDD and CAL cases adjudicated under these rules have accuracy rates that are comparable to, if not higher than, the accuracy rates of other cases involving a medical or psychological consultation. Moreover, among cases for which our reviews identified an error, a significantly smaller share contained material errors that resulted in an incorrect outcome. For these reasons, we have decided to extend the expiration date in §§ 404.1615(c)(3) and 416.1015(c)(3). Accordingly, we are extending the rule for 1 year, until November 14, 2014. As before, we reserve the authority to terminate the rule earlier or to extend it by publishing a final rule in the Federal Register.

We are also making minor, nonsubstantive editorial changes to the first sentence of current §§ 404.1615(c)(3) and 416.1015(c)(3). These minor changes merely improve the clarity of the current sentence.

Regulatory Procedures

Justification for Issuing a Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. However, the APA provides exceptions to its notice and public comment procedures when an agency

finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We have determined that good cause exists for dispensing with the notice and public comment procedures for this rule. 5 U.S.C. 553(b)(B). Good cause exists because this final rule only extends the expiration date of the existing provision and makes minor nonsubstantive editorial changes to the rule. It makes no substantive changes. The current regulations expressly provide that we may extend or terminate this rule. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this rule as a final rule.

In addition, for the reasons cited above, we find good cause for dispensing with the 30-day delay in the effective date of this final rule. 5 U.S.C. 553(d)(3). We are not making any substantive changes in our current rule, but are only extending the expiration date of the rule and making minor editorial changes. In addition, as discussed above, the change we are making in this final rule will allow us to better utilize our scarce administrative resources in light of the current budgetary constraints under which we are operating. For these reasons, we find that it is contrary to the public interest to delay the effective date of our rule.

Executive Order 12866, as supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it.

We also determined that this final rule meets the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

This final rule does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security--Disability Insurance; 96.002, Social Security--Retirement Insurance; 96.004, Social Security--Survivors Insurance; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-age, Survivors and Disability Insurance; Reporting and recordkeeping requirements; Social security.

20 CFR Part 416

Administrative practice and procedure; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: October 30, 2013.

Carolyn W. Colvin,
Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart Q of part 404 and subpart J of part 416 of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE
(1950—)

Subpart Q— [Amended]

1. The authority citation for subpart Q of part 404 continues to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

2. Amend §404.1615 by revising paragraph (c)(3) to read as follows:

§404.1615 Making disability determinations.

* * * * *

(c) * * *

(3) A State agency disability examiner alone if the claim is adjudicated under the quick disability determination process (see § 404.1619) or the compassionate allowance process (see § 404.1602), and the initial or reconsidered determination is fully favorable to you.

This paragraph will no longer be effective on November 14, 2014 unless we terminate it

earlier or extend it beyond that date by publication of a final rule in the FEDERAL REGISTER; or

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PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND,
AND DISABLED

Subpart J—[Amended].

4. The authority citation for subpart J continues to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

5. Amend §416.1015 by revising paragraph (c)(3) to read as follows:

§416.1015 Making disability determinations.

* * * * *

(c) * * *

(3) A State agency disability examiner alone if you are not a child (a person who has not attained age 18), and the claim is adjudicated under the quick disability determination

process (see § 416.1019) or the compassionate allowance process (see § 416.1002), and the initial or reconsidered determination is fully favorable to you. This paragraph will no longer be effective on November 14, 2014 unless we terminate it earlier or extend it beyond that date by publication of a final rule in the FEDERAL REGISTER; or

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[FR Doc. 2013-26524 Filed 11/05/2013 at 8:45 am; Publication Date: 11/06/2013]